

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

MICHAEL CINELLI,)	
)	
Petitioner)	
)	
v.)	No. 3:05cv0328AS
)	
ED BUSS,)	
)	
Respondent)	

MEMORANDUM OPINION AND ORDER

On or about June 3, 2005, *pro se* petitioner, Michael Cinelli, an inmate at the Westville Correctional Facility (WCF) in Westville, Indiana, filed a petition seeking relief under 28 U.S.C. §2254. The Response filed on behalf of the respondent by the Attorney General of Indiana on February 10, 2006, demonstrates the necessary compliance with *Lewis v. Faulkner*, 689 F.2d 100 (7th Cir. 1982).

The petitioner is a convicted felon serving a sentence imposed by a court in the State of Indiana. At the time of the filing of this petition he was incarcerated in the WCF in this district. This petition relates to a conviction in the Elkhart Superior Court in Elkhart County, Indiana. The papers filed in this case indicated that this petitioner is under release supervision and no longer in the custody of Ed Buss or the Indiana Department of Corrections. He was convicted of robbery in the Elkhart Superior Court in 1997, and was also convicted in 2003 in an Elkhart County court exercising criminal jurisdiction of

receiving stolen property. There was a plea of guilty to the 1990 offense as well as the 2003 events.

According to the papers filed, no appeal was taken and thus the basic standards established in *O'Sullivan v. Boerckel*, 526 U.S. 838 (1999) are not present. Indeed as the Attorney General of Indiana points out, procedural default is present and exists as the basis for **DISMISSING** this petition, which is now done. **IT IS SO ORDERED.**

DATED: March 20, 2006

S/ ALLEN SHARP

ALLEN SHARP, JUDGE
UNITED STATES DISTRICT COURT